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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,238	08/08/2001	Robert J. Laferriere	Gems0136/YOD	9904
28046	7590	02/26/2004	EXAMINER	
FLETCHER, YODER & VAN SOMEREN			SAADAT, CAMERON	
P. O. BOX 692289			ART UNIT	
HOUSTON, TX 77269-2289			PAPER NUMBER	

3713

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,238

Applicant(s)

LAFERRIERE ET AL.

Examiner

Cameron Saadat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Status of Claims

In response to Amendment filed 12/3/03, Claims 16-42 are pending in this Application. Claims 1-15 were previously withdrawn from further consideration by the examiner as being drawn to a non-elected Invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16-17, 23-25, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Melker et al. (USPN 6,535,714 B2; hereinafter Melker).

Regarding claim 16, Melker discloses a method for remotely training persons having a medical diagnostic imaging system, the method comprising: providing a collaborative computing environment between a trainee and a remote trainer for a medical diagnostic imaging system (including several other medical devices); and interactively instructing the trainee via the collaborative computing environment (Col.8, lines 10-19, 65).

Regarding claim 17, Melker discloses a remote collaborative computing environment comprising interacting with a UNIX operating system and several other operating systems (Col. 3, line 66).

Regarding claims 23 and 25, Melker discloses the feature of remotely interacting and initiating events with an operating system of the medical diagnostic imaging system (col. 3, lines 24-37; line 60).

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Regarding claims 24, Melker discloses a collaborative environment having platform-independent operating systems (Col. 3, line 62 – Col. 4, line 6).

Regarding claim 27, Melker discloses the feature of remotely interacting with a plurality of geographically separate trainees via the collaborative computing environment (Col. 8, lines 10-12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 18-22, 28-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melker et al. (USPN 6,535,714 B2; hereinafter Melker) in view of Edlund et al. (USPN 6,085,227; hereinafter Edlund).

Regarding claims 18, 28, 31, 34-35, 37-38, and 40, Melker discloses a method of providing a collaborative computing environment for interacting a medical diagnostic imaging system and *conducting group instruction*, training, monitoring, and the like. It is not explicitly disclosed that the remote computing environments **share** a graphical user interface (as per claims 18, 28, 34-35, 37, and 40) or transmit captured screen data (as per claims 31 and 38). However, Edlund teaches a collaborative

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computing environment, wherein multiple users share content of *real-time* content of scientific instruments (Col. 2, lines 5-36; Col. 3, lines 35-45). In view of Edlund, it would have been obvious to a person of ordinary skill in the art to modify the collaborative computing environment described by in Melker, by providing a *shared graphical user interface* in order to allow multiple users to *simultaneously* view the status of a remote device and an associated scientific instrument or experiment; thus conducting an effective group instruction as suggested in Melker.

Regarding claims 19, 32, and 42, the combination of Melker and Edlund discloses a remote collaborative environment of shared interfaces, implemented with a medical diagnostic imaging system; and capability of capturing, transmitting screen data between computing systems. Neither reference explicitly discloses the feature of caching screen data. However, it is the examiner's position that providing a cache memory assembly in the central processing unit of a computer is notoriously well known feature for improving data transfer time, and it would have been obvious to a person of ordinary skill in the art to provide caching of computer data in order to provide faster delivery of information (See Newton's Telecom Dictionary, P. 120 cache memory).

Regarding claims 20, 26, 30, 33 and 39, the combination of Melker and Edlund discloses a remote collaborative environment of shared interfaces, implemented with a medical diagnostic imaging system; and capability of capturing, transmitting screen data between computing systems. Melker does not explicitly disclose the capability of providing **mutual operability** (20, 26, 30, 33 and 39). However, Edlund discloses the capability of providing **mutual operability** of an application by a first and second remote computing system (Col. 3, lines 35-39). Thus, it would have been obvious to a person of ordinary skill in the art to modify the remote collaborative environment described in Melker, by providing *mutual control of an application*, in light of the teachings of Edlund in order to provide an enhanced collaborative environment, wherein users in remote locations can *simultaneously* interact and cooperate with each other in a shared graphical user interface.

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Regarding claim 21, Melker discloses the feature of providing a simulated graphical user interface for the medical diagnostic imaging system (Col. 2, line 65 - Col. 3, line 5).

Regarding claim 22, Melker further discloses capturing screen data for a display of the medical diagnostic imaging system and transmitting the screen data to a remote display (col. 4, lines 12-13).

Regarding claims 29, and 36, Melker discloses a collaborative environment having platform-independent operating systems (Col. 3, line 62 – Col. 4, line 6).

Regarding claim 41, the combination of Melker and Edlund discloses a remote collaborative environment of shared interfaces, implemented with a medical diagnostic imaging system; and capability of capturing, transmitting screen data between computing systems. Neither reference explicitly discloses the feature of providing a safety routine to prevent undesirable operation of the medical diagnostic imaging system. However, it is the examiner's position that providing a safety routine to prevent undesirable operation of a system is a notoriously well known feature for limiting the exposure of a computer or a group of computers to an attack from outside. Therefore, it would have been obvious to a person of ordinary skill in the art to provide a safety routine in order to protect the system (See Newton's Telecom Dictionary, P. 299 firewall).

Response to Arguments

Applicant's arguments filed 12/3/03 have been fully considered but they are not persuasive.

Applicant alleges that the examiner's proposed scope for the terms of claim 16 are completely unreasonable and inconsistent with the scope of the specification and the understanding of one of ordinary skill in the art. Applicant is reminded that office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See

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also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (“During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.”).

Applicant mistakenly asserts that the examiner has relied on the theory of inherency. It is noted that the examiner has in no way relied upon the theory of inherency but has instead given the claims their broadest reasonable interpretation in light of the supporting disclosure.

Applicant asserts that Melker does not teach the following features of independent claim 16: “providing a collaborative computing environment between a trainee and a remote trainer” and “interactively instructing the trainee via the collaborative computing environment”. It is pointed out, by the examiner, that applicant’s specification discloses the following:

“... the shared computing techniques described herein should be interpreted broadly, while it should be recognized that these techniques are particularly well suited for collaborative interaction *among users and systems* associated with medical systems.” (Specification P. 6, ¶ 19)

In light of applicant’s specification, the collaborative interaction is provided among users and systems. Thus, Melker clearly discloses a collaborative computing environment between a trainee and a remote trainer and clearly provides remote interactivity. (Col.8, lines 10-19, 65; Col. 3, lines 55-60).

Applicant additionally emphasizes that Edlund merely discloses *one-sided* remote controlling and observing and does not provide collaborative interaction. However, Edlund clearly discloses a collaborative computing environment, wherein multiple users share content of *real-time* scientific

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instruments (Col. 2, lines 5-36; Col. 3, lines 35-45). It is further noted that applicant's claim language does not claim a *two-way channel*.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Slattery et al. (USPN 6,514,085) – disclose a collaborative training environment with shared interfaces and mutual device operability.
- Ramshaw et al. (USPN 5,791,907) – disclose an interactive medical training device.
- Hon (USPN 6,074,213) – discloses a method of collaboratively training remote medical teams.
- Eggert et al. (USPN 5,853,292) – disclose an interactive medical training device.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is 703-305-5490. The examiner can normally be reached on M-F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa J Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

CS


Teresa Walberg
Supervisory Patent Examiner
Group 3700